

Subchapter B. Administration and Organization

§8531. Governing Body

A. An ICF/DD shall have an owner or identifiable governing body with responsibility for, and authority over, the policies and activities of the ICF/DD and ultimate authority for:

1. the overall operation of the facility;
2. the adequacy and quality of care;
3. the financial solvency of the facility and the appropriate use of its funds;
4. the implementation of the standards set forth in these regulations; and
5. the adoption, implementation, and maintenance, in accordance with the requirements of state and federal laws and regulations and these licensing standards, of ICFs/DD and administrative policies governing the operation of the facility.

B. An ICF/DD shall have documents identifying the names and addresses of its owners. When an ICF/DD is owned by any type of corporation, partnership, or association it shall identify the names and address of its members and officers and shall have, where applicable, a charter, partnership agreement, articles of association, by laws, or other organizational documents.

C. An ICF/DD shall have documents identifying all members of the governing body; their addresses; their terms of membership; officers of the governing body, and terms of office of all officers, if applicable.

D. When the governing body of an ICF/DD is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

E. When the governing body is composed of more than one person, an ICF/DD shall have written minutes of all formal meetings of the governing body and by-laws specifying the frequency of meetings and the quorum requirements.

F. Responsibilities of a Governing Body. The governing body of an ICF/DD shall:

1. ensure the ICF/DD's continual compliance and conformity with the ICF/DD's charter, bylaws or other organizational documents;
2. ensure the ICF/DD's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
3. ensure that the ICF/DD is adequately funded and fiscally sound;
4. review and approve the ICF/DD's annual budget;
5. ensure the review and approval of an annual external audit;
6. ensure that the ICF/DD is housed, maintained, staffed, and equipped appropriately considering the nature of the ICF/DD's program;
7. designate a person to act as administrator and delegate sufficient authority to this person to manage the ICF/DD;
8. formulate and annually review, in consultation with the administrator, written policies concerning the ICF/DD's philosophy, goals, current services, personnel practices, and fiscal management;
9. annually evaluate the administrator's performance;
10. have the authority to dismiss the administrator;
11. meet with designated representatives of the department whenever required to do so;
12. inform designated representatives of DHH prior to initiating any substantial changes in the program, services or physical plant of the ICF/DD; and
13. ensure statewide criminal background check on all unlicensed persons.

G. The administrator or a person authorized to act on behalf of the administrator shall be accessible to the ICF/DD staff and designated representatives of DHH at all times.

H. An ICF/DD shall have a written statement describing its philosophy and describing both long-term and short-term goals. An ICF/DD shall have a written program plan describing the services and programs offered by the ICF/DD.

I. Administrative File. An ICF/DD shall have an administrative file including:

1. articles of incorporation or certified copies thereof, if incorporated, bylaws, operating agreements, or partnership documents, if applicable;
2. documents identifying the governing body;
3. a list of members and officers of the governing body and their addresses and terms of membership, if applicable;
4. minutes of formal meetings, if applicable;
5. documentation of the ICF/DD's authority to operate under state law;
6. an organizational chart of the ICF/DD, which clearly delineates the line of authority;
7. all leases, contracts and purchase-of-service agreements to which the ICF/DD is a party;
8. insurance policies;
9. annual budgets and audit reports; and
10. copies of all Incident/Accident Reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3190 (December 2012).

§8591. Visitation by Close Family Members of a Resident During a Declared Public Health Emergency

A. For purposes of this Section, a public health emergency (PHE) means a declaration made pursuant to the Health Emergency Powers Act, R.S. 29:760 et seq.

B. ICF/DDs shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in ICF/DDs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §8591.C-G shall be preempted by any

federal statute, federal regulation or guidance from a federal government agency that requires an ICF/DD to restrict resident visitation in a manner that is more restrictive than the rules.

C. ICF/DDs shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in ICF/DDs during a declared PHE.

D. ICF/DDs shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in ICF/DDs during a declared PHE.

E. The provisions of this Section regarding visitation by a close family member of a resident of an ICF/DD to visit the resident during any state of PHE shall apply to all ICF/DDs licensed by LDH.

F. For purposes of this Section, a close family member shall mean a parent, step-parent, sibling, step-sibling, aunt, uncle, child, step-child, spouse, mother-in-law, father-in-law, grandparent, grandchild, or legal representative of the ICF/DD resident.

G. Subject to compliance with the requirements of §8591.B-D, each ICF/DD shall allow close family members of the residents to visit a resident of the ICF/DD during a declared PHE when a resident, or his legal or designated representative, requests a visit with close family members of the resident, subject to the following conditions and requirements:

1. Each ICF/DD shall have a written policy and procedure addressing visitation by close family members of the resident. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ICF/DD shall provide a link to an electronic copy of the policy and procedure to close family members of the residents, upon request.

2. An ICF/DD's policy and procedure regarding visitation by close family members may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ICF/DD, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. An ICF/DD's policy and procedure on visitation by close family members shall, at a minimum, require the following:

- a. that the ICF/DD give special consideration and priority for visitation by close family members and other designated persons to residents receiving end-of-life care;

- b. that visitation by close family members and other designated persons will be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for

Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the ICF/DD shall utilize those methods and protocols;

- c. that a close family member or other designated person not be allowed to visit an ICF/DD resident if such close family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such close family member or other designated person tests positive for an infectious agent or infectious disease;

- d. that a close family member or other designated person not be allowed to visit an ICF/DD resident if the close family member and other designated person refuses to comply with the provisions of the ICF/DD's policy and procedure or refuses to comply with the ICF/DD's reasonable time, place, and manner restrictions;

- e. that close family members and other designated persons be required to wear personal protective equipment as determined appropriate by the ICF/DD, considering the resident's medical condition or clinical considerations;

- i. at the ICF/DD's discretion, personal protective equipment may be made available by the ICF/DD to close family members and other designated persons;

- f. that an ICF/DD's policy and procedure include provisions for compliance with a Louisiana state health officer (SHO) order or emergency notice or governor's executive order or proclamation limiting visitation during a declared PHE;

- g. that an ICF/DD's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines issued by any federal government agency regarding visitation in ICF/DDs during a declared PHE; and

- h. that includes provisions for off-site visitation, allowing a close family member to visit an ICF/DD resident away from the facility campus; the policy and procedure shall include requirements for allowing the resident to return to the facility upon certain conditions, such as meeting testing and isolation requirements recommended by the CDC, the Centers for Medicare and Medicaid Services (CMS), a Louisiana SHO order or emergency notice, or a governor's executive order or proclamation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

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